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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,521	11/19/2001	Alan F. Savicki	492.166	6386

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EXAMINER

BRITTAIN, JAMES R

ART UNIT PAPER NUMBER

3677

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,521

Applicant(s)

SAVICKI, ALAN F.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-12,14-25,29-35,37-44,48-67 and 71-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,6-10,14-16,20-25,29-33,37-39,43,44,48-67,71 and 76-83 is/are allowed.
- 6) ☒ Claim(s) 11,12,17-19,34,35,40-42 and 72-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 11, 12, 17-19, 34, 35, 40-42, and 72-75 is withdrawn in view of the newly discovered reference(s) to Cappel et al. (US 6286999). Rejection(s) based on the newly cited reference(s) follow. The inconvenience to applicant is regretted.

Claims 1, 2, 6-10, 14-16, 20-25, 29-33, 37-39, 43, 44, 48-67, 71, and 76-83 are allowed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 17-19, 34, 35, 40-42, 72, 74, and 75 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cappel et al. (US 6286999) in view of Herrington, Jr. et al. (US 5067208).

Cappel et al. (figures 15a-15d) teaches a closure device comprising first and second fastener strips, a slider 32 adapted to be slidably disposed on said fastening strips and facilitating the occlusion of said fastening strips when moved towards a first end thereof and facilitating the deocclusion of said fastening strips when moved towards a second end thereof, said fastening strips and said slider having a longitudinal X axis and a transverse Y axis, said transverse Y axis being perpendicular to said longitudinal X axis, said fastening strips and said slider having a vertical Z axis, said vertical Z axis being perpendicular to said longitudinal X axis, said vertical Z axis being perpendicular to said transverse Y axis, a first detent 154 within the cavity 152 at

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said first end of said fastening strips, said slider comprising a housing having a protrusion 150 for engaging said first detent 154 of said fastening strips when said slider is moved to said first end of said fastening strips (col. 10, line 66 - col. 11, line 6) thereby inherently preventing removal of said slider from said first end of said fastening strips in said longitudinal X axis. The difference is that in this species, Cappel et al. do not explicitly state that the slider has a separator and if the axis of the separator is at an angle to the X-axis. However, Cappel et al. indicates that Herrington, Jr. et al. is a well known construction (col. 1, lines 20-24) and they teach (figure 11) that it is desirable to construct a slider with a housing wherein said housing has a separator 9 to facilitate the occlusion of said fastenings strips, and wherein said separator has a separator axis, said separator axis is at an angle of 0° to the longitudinal X axis. As it would be beneficial to provide the slider of Cappel et al. with slider structure that would facilitate the occlusion of the fastening strips, it would have been obvious to modify the fastener of Cappel et al. to have a separator upon the slider to facilitate the occlusion of the fastening strips and to set the separator axis at an angle of 0° to the longitudinal X axis in view of Herrington, Jr. et al. teaching that it is desirable to construct a slider with a housing wherein said housing has a separator 9 to facilitate the occlusion of said fastenings strips, and wherein said separator has a separator axis, said separator axis is at an angle of 0° to the longitudinal X axis. Setting the angle to 0° is within the scope of claims 11 and 34 because claims 12 and 35, which depend from claims 11 and 34 respectively, limit the axis of the separator to being parallel to the X-axis, in other words to 0° . As to claims 72, 74, and 75, both Cappel et al. (figures 7g, 7h) and Herrington, Jr. et al. (figures 3-6) suggest the use of closure strips that are profiled, have a rolling action, and have one

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member that is U-shaped and is therefore considered to be a U-channel closure type as being desirable to form a closure.

Claim 73 is rejected under 35 U.S.C. §103(a) as being unpatentable over Cappel et al. in view of Herrington, Jr. et al. (US 5067208) as applied to claim 11 above, and further in view of Stolmeier (US 5871281).

Further modification of the fastener of Cappel et al. so that the interengaging features are of the arrowhead type would have been obvious in view of Stolmeier et al. (figure 4) teaching that it is well known to be advantageous to utilize the arrowhead type of interengaging features 18H so as to better secure the closure.

Conclusion

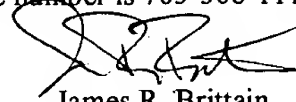
The patent of Cappel et al. (US 5896627) (figures 3, 4, 7) teaches pertinent slider structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain
Primary Examiner
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JRB